

STATE FINANCES

FINANCING EDUCATION (K-12) and STAR

LWVNYS involvement in school finances began with the national League position for equal educational opportunity. (*LWVUS Impact on Issues, 2012-2014, pp. 58*) The state League adopted a position in the **1950s** for greater state sharing in school funding.

In **1972** the state League's fiscal policies study focused on financing education. A position resulted which favored full state funding of education using a state property tax and a progressive income tax.

In **1983**, an LWVNYS re-evaluation of financing education in the state dropped the full state funding and state property tax advocacy and called instead for a slight increase, if necessary, in all state taxes to achieve greater equity in school funding. It also supported increased state funding of the state aid formula and called for reduced funding of dis-equalizing forms of aid.

Delegates to the **1995** state convention adopted a two-year study of public financing of school education through Grade 12 including examination of alternative sources of funding and distribution formulas. Delegates felt many changes had occurred since the League's 1983 re-evaluation of financing education, and that it was time to re-evaluate our position in an area that affects all citizens. Much had changed since the last study. State aid to education, once the largest part of the state budget, had decreased and represented only 1/5 of the New York State budget. Transportation aid formulas had been changed. Questions were being raised regarding the expenditure of state education aid by cities. Our goal had been to ensure that aid reflects our commitment to both equity and excellence; however, the disparity between wealthy and poor districts continued. Equity in state aid was being challenged in the Court of Appeals in *Campaign for Fiscal Equity v. State of New York* (CFE) and the distribution formula was expected to change. There was new pressure to have aid given to non-public schools. Many areas of the state placed more reliance on property taxes and taxpayer alliances were seeking reductions in taxes. There was renewed interest in finding alternate methods of funding education. At the same time, there were growing challenges to the current assessments.

Under the direction of a state-wide committee, local Leagues throughout the state participated in this study of financing education. Leagues conducted interviews of local school and community leaders. The data and opinions gathered produced a survey of 56 school districts, eight percent of the more than 700 school districts in the state. Suburban, small cities, large cities, and rural school districts were represented in the survey. The purpose of the survey was to learn the components of school finance, the problems in achieving more equitable financial support for all school children and explore the changes being advocated by educators and community activists.

Scope:

Phase I: Examine and evaluate the current distribution formulas for allocating state aid, study alternate methods.

Phase II: Examine and evaluate the current sources of funding at both the local and state levels, study alternate sources.

In 2005 LWVNYS delegates to the State Convention again determined to study K-12 financing of education. The Court of Appeals had issued a ruling in CFE (see next section), and additionally, since the prior study in 1995, the state had implemented the School Tax Relief (STAR) Program in 1997. Delegates continued to voice concern about the growth of charter schools and public funding of private schools. Accordingly, these two topics were the focus of the new study. The first phase was completed and announced in spring of 2006; the second phase on charter schools was completed and announced in late 2006. The scope of the two-year study was originally to include an analysis of potential increased use of gambling revenues to support education, but this facet of the study was never staffed, because the bulk of member interest was in the first two topics. In 2006, the current position language, including its new position in opposition to STAR, was announced by the State Board.

2005-2006 Statewide Study of K-12 Education
Amendment of Financing Public Education K-12, and Adoption of a Position on Charter Schools

During the first year of the study (September, 2005 to May, 2006) the League considered how the State should raise the additional funds required to implement the CFE order on a statewide basis and the role of the STAR Program (School Tax Relief) on the funding of education. Local Leagues completed the consensus process in May 2006 and the Board amended Financing Public Education K-12 and Real Property Taxation positions in July 2006 to reflect the consensus results.

Briefly stated, the League amended its Financing Education position (K-12) to support greater equity in education financing for both pupils and taxpayers, removal of education from the political arena by adoption of a foundation approach to education finance, recognition of savings by replacement of the STAR program with a meaningful needs-based circuit breaker program with annual cost of living adjustment, increased stability of education finance by creation of a dedicated education reserve to make up shortfalls in times of economic downturn, and the raising funds to provide New York's children with a sound basic education through increases in the New York State personal income tax, implemented in a progressive fashion.

The League amended its real property tax position to provide for replacement of existing residential property tax relief programs, in which relief was designed to go to all regardless of need (such as basic STAR until 2011), with programs based on need, adjusted annually in accordance with changes in the cost of living.

During the second phase of the study (September to November, 2006) the League considered whether to adopt a charter school position as part of its overall financing education positions. Local Leagues completed the consensus process in November 2006 and the Board adopted a Charter School position in November 2006 to reflect the consensus results, which were then posted on the website. In December 2006, the League cancelled the third phase of its study, the use of gambling revenues to finance education, for lack of sufficient local League interest.

FINANCING EDUCATION K-12

Statement of Position

As announced by the State Board, June, 1997

And amended in July, 2006

The State's Obligation

New York State bears a constitutional responsibility for the education of its children. This duty has been defined by litigation of more than a decade's duration, during which the Court of Appeals has held the State must provide all children with a sound basic education, defined as the opportunity for a meaningful high school education, consisting of the basic literacy, calculating, and verbal skills necessary to enable them to eventually function productively as civic participants capable of voting and serving on a jury. Included in the goods and services that constitute a sound basic education are minimally adequate physical facilities and classrooms which provide enough light, space, heat, and air to permit children to learn, minimally adequate instrumentalities of learning such as desks, chairs, pencils, and reasonably current textbooks, and minimally adequate teaching of reasonably up-to-date basic curricula such as reading, writing, mathematics, science, and social studies, by sufficient personnel adequately trained to teach those subject areas.

This duty extends to all the State's children, and to the extent that children with special needs (students with disabilities, with limited English proficiency, and in poverty) require a greater input of funds to obtain their constitutional due, the State must support that input.

While ultimate responsibility for adequate funding of education rests with the State, it may fulfill its obligation by requiring a local contribution to education that is reasonably correlated to a district's ability to pay.

Means of Raising Money

The State's system of financing education should be progressive, with a higher portion of the cost paid by those having greater ability to pay. The means of raising money should incorporate the principles of simplicity and transparency, stability, insofar as progressivity is not sacrificed, and exportability, either in

Statement of Position

As announced by the State Board, June 1997

And amended in July, 2006 (continued)

Distribution and Use of Monies for K-12 Education

The goal for distribution of additional state aid should be to narrow the expenditures gap between wealthy and poor districts.

Although additional aid does not preclude a decrease in local real estate tax, the school district is expected to maintain its local tax effort to sustain or improve its performance in meeting educational standards.

Additional state aid should be used not only for basic operating expenses, but also for funding the construction and rehabilitation of school buildings, the acquisition of technology and the fulfillment of state mandates.

Aid for operating costs should enable school districts to provide all their children with a sound basic education and to fulfill educational standards established by the State Education Department. Aid should incorporate a district's ability to pay, regional cost differences, population sparsity, and transitional adjustments to bridge large reductions in aid caused by sudden changes. Extra costs incurred for students with special [learning] needs (i.e., learning disabilities, limited English proficiency and poverty) should be factored into basic operating costs as well, in order to keep categorical grants to a minimum.

The League supports implementation of educational efficiencies in the provision of a sound basic education, provided that the proposed efficiencies do not affect adequacy of education. State aid policies should promote cost-effective measures such as consolidation of services, shared services, shared resources and other management efficiencies.

Property Tax Relief and its Impact on K-12 Education

FINANCING EDUCATION K-12

Statement of Position

As announced by the State Board, June 1997

And amended in July, 2006 (continued)

Reform of the present system and administration real property assessment requires that it be:

1. **Equitable in its distribution of the tax burden,**
2. **Based on uniform standards,**
3. **State assisted, monitored and enforced,**
4. **Easily understandable and accessible to taxpayers; and**
5. **Kept current by periodic reassessments.**

Use of Public Funds for Non-Public Schools

The League is opposed in principle to the use of public funds to support non-public schools. The League would not deny public funding for existing services to students who attend private schools. However, we believe public funds should be used to support public schools.

Recent League Activity

The New York Senate kicked off their **2016** legislative session by passing their Education Investment Tax Credit bill on the second day of session. The bill was pushed through the Rules Committee and voted on by the full Senate in the same afternoon. One week later at the State of the State address, Governor Cuomo once again used his executive budget to push his version of the bill. There were heavy lobbying efforts from the Catholic Conference and Charter School organizations but luckily the League and its education partners were able to keep the legislation out of the budget. Over the course of session, we issued countless memos of opposition, held several joint press conferences, and conducted a legislative briefing for Assembly members. We were very pleased that the bill did not move in the Assembly.

Education financing was a major issue during the 2016 budget negotiations. Many members argued for full Campaign for Fiscal Equity (CFE) funding but unfortunately it was not included in the final bill package. Foundation aid did receive a 4% increase of \$627 million and \$434 million was budgeted to finally fully eliminate the Gap Elimination Adjustment.

The Governor's **2015** State of the State address proposed a linking of formulaic percentage school aid increases to controversial revisions in teacher evaluation policies. Unlike 2014, the Governor also proposed the funding of \$100 million of "education investment tax credit"

initiatives, allowing individuals and corporations to receive a state income tax credit in exchange for directed donations. On the day of the State of the State address, in fact delaying it due to heated debate, the State Senate introduced and passed its own Education Investment Incentives Act, which the League had successfully opposed (in similar form) in 2014.

As in 2014, in response the League convened education and civic groups to prepare for a vigorous lobbying campaign. The League moderated three press conferences, and the coalition opposed to this tax giveaway grew to over 40 organizations. We worked with Assembly Speaker Sheldon Silver's staff and, following his sudden resignation as Speaker, that of the newly member-elected Speaker, Carl Heastie, to prevent this measure from being included in the budget passed in early April. After the Governor indicated that this credit would be addressed "post budget," the state and local Leagues continued (until the end of June) to vigorously lobby in opposition of this tax credit scheme.

At the end of 2015 session the Governor and legislative leaders agreed to a STAR Rebate for property owners up to \$250,000 income with a onetime \$185 check to all homeowners in October 2016 with incomes below \$100,000. The League participated in a coalition that instead supports a circuit breaker.

In both 2015 and 2014, the League also testified to the Assembly Ways and Means, Senate Finance and Assembly and Senate Education Committees regarding its continued support for a property tax circuit breaker, its opposition to the state's School Tax Relief (STAR) and its opposition to the property tax cap. See: http://www.lwvny.org/advocacy/education/2015/Testimony-on-joint-hearing-financial-ed_020315.pdf

Past League Activity

In **2007** the League successfully supported Governor Spitzer's proposal to move to a foundation approach for the funding of education that included a financial commitment to universal pre-K and full-day kindergarten and pledged a new focus on early childhood development, with emphasis on children from birth to age 3. The League supported these initiatives, which were largely reflected in the enacted budget. It was unsuccessful, however, in its attempts to stop legislative tinkering that increased STAR benefits and provided other educational benefits to Long Island districts. The addition of tax relief and other benefits maintained the traditional shares approach in distribution of state education aid. The League lobbied unsuccessfully to prevent an increase of the STAR program. The League lobbied successfully for adoption of a transition assistance program for school districts severely financially affected by charter schools, but was unsuccessful in its attempts to prevent an increase of the number of charter schools allowed.

In 2007-12, LWVNYS continued to advocate for full implementation of the foundation aid formula, developed in response to the CFE litigation. After the issuance of the New York State Commission on Property Tax Relief (known as the Suozzi Report) in 2008, the League issued a statement in opposition to tax caps unless and until foundation aid, with regular updates based on student need and income and property wealth, is fully implemented. The League recommended the replacement of the STAR programs with a property tax circuit breaker, which would tie property tax relief to the taxpayer's ability to pay.

Testimony was provided at the joint legislative education and finance hearings in February of each of those years. See separate discussion under the caption Real Property Taxation herein for a fuller discussion of the League's advocacy related to STAR. In 2010, the middle class STAR program was revised, curtailing some benefits to wealthier taxpayers, and imposing an income limitation of \$500,000 beginning in 2011 on refunds. However, the Legislature still did not seriously consider substituting a property tax circuit breaker, but rather discussed it as an additional program. In 2012, the League testified at the public hearings of the Governor's New York Education Reform Commission, focusing primarily on League support for implementing the CFE decision and pointing to problems with the newly instituted tax cap.

In 2013, the League continued to lobby for reforms consistent with our position statement. Lobbying included providing testimony at the joint legislative fiscal hearings on elementary and secondary education on January 29, highlighting a) inequities in the Governor's budget proposal for state aid distribution, b) our recommendation for a targeted circuit breaker property tax relief program instead of the current STAR program, c) our recommendation that local property tax assessment and collection processes be reformed, d) our opposition to the property tax cap as structured, e) our questioning of \$203 million out of \$889 million of increased funds to be devoted to "fiscal stabilization" unspecified and f) our objection to a proposed program of competitive grants for pre-Kindergarten programs, which we believe should instead be universally funded. At the end of the 2013 legislative session, the League lobbied against the passage of A.7786/S5842, concerning the guidelines for granting tuition vouchers to parents for certain special needs students to attend parochial schools. Following League lobbying efforts, similar legislation had been vetoed by the Governor at the end of the 2012 legislative session.

During the **2014** legislative session the League and its coalition partners successfully defeated the so-called "education investment tax credit" proposal that would support private school scholarships as an indirect form of a tuition voucher. It emanates from ALEC (American Legislative Exchange Council) model legislation. In prior years there was little Assembly support but in 2014, increased pressure from religious groups and charter schools coalesced. Substantial differences existed between the two houses' versions. Until session-end, the League successfully partnered with over two dozen other organizations, hosting several press conferences, and testifying before the Assembly Ways and Means, Senate Finance, and Assembly and Senate Education Committees, to stall the initiative. See http://www.lwvny.org/advocacy/education/2014/ed-finance-testimony_0114.pdf

In **2014**, the League also actively opposed legislation related to financing of special education services in private schools in New York City. The League had successfully fought this same bill in 2013 when it was to be implemented statewide. In 2014, it reappeared limited only to New York City. The League along with the New York City League continued to fight this bill because it would impose an additional monetary burden (over \$200 million) on City schools during appeals of special education placements. The legislation passed in the Senate but an agreement to settle this issue administratively was agreed to without legislative action.

CAMPAIGN FOR FISCAL EQUITY

Recent League Activity

See discussion under Financing Education K-12.

Past League Activity

The Campaign for Fiscal Equity (CFE) litigation was commenced in 1993 on behalf of New York City school children who alleged that the state had denied them their state constitutional right to a sound basic education. Subsequently, League members across the State participated in the "Accountable Schools, Accountable Public" and other public engagement projects designed to educate citizens and elicit opinions about the issues. The LWV submitted an Amicus Brief (2002) in support of that suit, premised primarily on the concept that the democratic system rests upon an educated electorate. The brief contended that it is the role of the public schools to prepare students for civic participation and that public schools failed to do so. After ten years of litigation, in a 4-1 Court of Appeals decision, CFE won its lawsuit against the State for underfunding New York City schools. The Court ruled on June 26, 2003 that every public school student is entitled to "the opportunity for a meaningful high school education," which was defined as "one with skills and knowledge to function productively as civic participants in the 21st Century, including being capable and knowledgeable voters and jurors able to sustain employment." The Court also ordered the Governor and Legislature to determine the cost of a sound basic education in New York City, to reform the State's funding formula to ensure necessary resources and to implement an accountability system that would ensure that the opportunity is received. July 30, 2004 was designated as the deadline for instituting these measures. Judge Leland de Grasse, the New York State Supreme Court judge who had rendered an earlier affirmative decision in the case, announced his intention to appoint a master by July 30, 2004 if the legislature fails to produce an adequate remedy by the deadline.

Commencing in 2003 after the CFE decision, the League has testified before legislative and official state commission representatives, making recommendations about the CFE remedy. In the fall of **2004**, the League filed a second Amicus brief, following the legislature's and the Governor's failure to resolve the case by the July 30, 2004 deadline imposed by the Court of Appeals. The League testified in opposition to the Governor's proposed 2006-2007 budget because it did not provide the additional state operating aid mandated by CFE.

In 2006, the legislature addressed the capital needs New York City schools to bring them into compliance with that portion of the CFE order addressing capital funding.

On November 20, 2006, the New York State Court of Appeals reaffirmed the state's responsibility to increase funding for New York City schools. Although its decision established as reasonable an additional funding figure of \$1.9 billion in operating expenses, or \$2.5 billion statewide, adjusted for inflation from 2004, the court noted that the governor and legislature were best able to arrive at the appropriate figure to provide all New York City students with the opportunity for a meaningful high school education. To that end the Campaign for Fiscal Equity, which the League supported in this litigation, called for additional annual funding of between \$4 and \$6 billion for NYC, a figure previously supported by both Governor Spitzer and former Governor Pataki.

The League's position supports the higher level of funding in two respects. First, it provides that money must be sufficient to enable children to meet all Regents standards in addition to enabling districts to provide a sound basic education, the constitutional minimum. The first Court of Appeals decision in CFE noted that funding need not be at a level sufficient to enable children to meet all Regents standards. While this distinction was relatively unimportant in light of the Appellate Division decision supporting CFE funding in the \$4 to \$6 billion range, it becomes paramount in light of the intervening Court of Appeals decision in support of the lower minimum remedy.

Pre-Kindergarten Advocacy: The LWVUS has a position in support of early childhood education, including preschool, as part of its social policy position advocating early intervention for children at-risk. Studies have shown that at-risk children enter school without the requisite readiness skills, and they are unable to overcome the initial gap. Quality pre-school education can help to alleviate this gap. In keeping with these positions, the League has joined a number of advocacy groups in calling for implementation of the CFE order statewide at a level higher than the minimum amount.

The League supports a foundation approach to funding education, in which the State provides any shortfall after calculation of a reasonable local share.

TUITION TAX CREDITS, VOUCHERS, AND CHARTER SCHOOLS

At its **2005** convention delegates voted to study charter schools as part of the larger update of its study on Financing Public Education K-12. At the time, there was no transitional funding to support school districts with growing numbers of charter schools, and standards for evaluating student performance relative to non-charter schools were inadequate. While the League already had a position favoring the targeting of taxpayer funds to public schools, delegates representing areas with high concentrations of charter schools believed that an updated review was warranted. This activity culminated in new position language.

**CHARTER SCHOOL
STATEMENT OF POSITION
AS ANNOUNCED BY THE STATE BOARD, NOVEMBER 2006**

The League recognizes that charter schools represent an educational experiment whose efficacy has never received appropriate validation. Moreover, a review of the performance of charters in New York State indicates that, while some do an excellent job of educating children, others are less successful than the most substandard traditional public schools. Therefore, The League supports public funding of academic research into the characteristics of charters that lead to student academic success.

Authority to grant, oversee, renew, and revoke charters, other than those granted in public school conversions, should be vested in a single entity. Charters should be subject to more stringent oversight of charter compliance in the renewal/revocation of process, with greater emphasis on positive educational outcomes.

The League supports measures to limit the negative financial impact of charter schools on their home districts, including: transition assistance; home district payment to charters based on the same standard used to pay operating aid to school districts (While the League supports enrollment as the appropriate measure, it believes the measure should be identical for both charters and traditional public schools.); separate levels of reimbursement for elementary and secondary education to charter schools based on what the home districts spend for the level of schooling provided; limitation of the percentage of a school district's budget that could be paid to charter schools. The League is opposed to State provision of capital construction and renovation services and reimbursement of capital expenditures for charter schools.

**CHARTER SCHOOL
STATEMENT OF POSITION
AS ANNOUNCED BY THE STATE BOARD, NOVEMBER 2006 (Continued)**

The League supports limitation of the number of charters issued in New York State. As a general matter, it believes that the number of charter schools should not be increased without prior successful implementation of the improvements outlined in this position. In lieu of amendment of the Charter School Act to increase the total number of charters that could be granted, it supports retention of the current total (100) with amendment of the Charter School Act so that a charter could be reissued if a charter school ceased to function for any reason.

Any increase in the cap on charter schools should be tied to amendment of the Charter School Act so that charters are required to prove positive educational outcomes for all children (disaggregated by special

Past League Activity

In 1985, bills were introduced in both the New York State Senate and Assembly to provide tuition tax credits for parents of non-public school students. The League took strong action in opposing this move on the grounds that this would erode the amount of money available for the traditional support of the public schools.

In 1991, a proposal came before the Board of Regents, which would have allowed parents to remove their children from particularly poor public schools and send them to other institutions through the use of vouchers. Once again, the League opposed the plan and the Regents withdrew it.

In the next legislative session, the issue of vouchers was again raised, and the League along with other public education supporters opposed their passage. In 1993, the aid formula was simplified and transportation aid keyed to take into account a district's wealth. The Regents' term of office was reduced from seven to five years.

In October 1996, an Action Alert was issued urging members to contact the State Board of Regents and Commission of Education Richard P. Mills to voice the League's opposition of a voucher experiment that would permit the use of public tax dollars to give students vouchers to attend private or religious schools. The Board of Regents met on November 7, and the proposal by Regent Emeritus Carballada was defeated by a vote of 12-3.

In 2006 the Governor proposed, as part of his 2006-2007 budget, an income tax credit for certain individuals to offset the cost of private school tuition or tutoring. The League opposed this measure, and it was deleted from the final budget.

Early in the 1998 legislative session, Governor Pataki sent to the Legislature a program bill creating a Charter School Program for New York State. During the session, the League lobbied vigorously against the proposed legislation on the theory that, without a dedicated funding stream for charters independent of the funding for traditional public schools, the legislation would dilute the money available to traditional public schools while continuing to require them to function as educators of last resort. The PTA, AAUW, and the School Boards Association joined us in our opposition to this legislation.

The LWVNYS was successful in holding the bill in the Assembly during the regular session, however, during the special session held in late December the legislation became part of a trade with the Legislature for their 38% pay raise. The League was able to work in the Assembly Democratic conference to take out of the bill some of the most onerous language but in the middle of the night without legislators seeing the final printed language and with no debate in the Assembly, the Charter School Action 1998 was passed. It also passed in the Senate where retiring Senator Charles Cook, chair of the Education committee spoke eloquently in opposition to the legislation. Governor Pataki signed the legislation and it became law immediately.

Delegates to the 1999 League convention directed the League board to conduct a monitoring project of the Charter Schools in New York State. The Albany County League will be monitoring The New Covenant School, one of three charter schools to open in 1999. Several more charter schools are slated to open in September 2000.

The League of Women Voters of Albany County, in conjunction with the State League, has developed a Charter-School monitoring instrument. Leagues who are interested in assessing Charter Schools in their local area can contact the State League for the research-monitoring instrument.

FINANCING PUBLIC HIGHER EDUCATION

The League of Women Voters of New York State undertook a study of the financing of public higher education in response to member interest and delegate support at the June 1997 Convention. League members were interested because of the dramatic policy changes that had occurred in the SUNY system. Tuition rates had increased sharply from 1995 to 1996; remedial education was under fire; the Tuition Assistance Program had been severely cut; and a mission review was introduced for the entire SUNY system. Some League members were aware that many policy shifts were underway; yet, there was little public awareness or discussion of these shifts. A League study on the issue of Financing Public Higher Education could potentially raise the level of public awareness of higher education issues, and it followed the just completed study on Financing Public Education K-12. After eighteen months of study, local Leagues, led by the State Committee on Financing Public Higher Education concluded their study and consensus.

FINANCING PUBLIC HIGHER EDUCATION

Statement of Position

As announced by the State Board, June 1999

The League of Women Voters of New York State believes higher education contributes to individual gains in the quality of life, but more important, it improves the collective good of the state. The State University of New York (SUNY) system provides the majority of the state's teacher education and offers programs ranging from the liberal arts to engineering and medicine. The community college system offers worker retraining programs, occupational studies and transfer degrees. Because of these extensive services, the League believes it is clearly in the public interest to fund public higher education.

The League recommends both increasing financial aid for students and increasing state operating aid to all campuses. Lack of finances has made it more difficult for New York state students to attain access to public higher education. Tuition increases and cuts in the Tuition Assistance Program (TAP) have raised the level of student indebtedness. Increasing financial aid for students and state aid will help individual students as well as strengthen programs and improve facilities on the SUNY four-year and two-year campuses.

FINANCING PUBLIC HIGHER EDUCATION

Statement of Position

As announced by the State Board, June 1999 (continued)

The League believes that all state colleges should charge the same tuition for similar programs. Charges should not vary depending on an individual campus' operating costs or geographic location. Tuition should be the same for all students and not based on student or family income.

The League supports sharing of resources among campuses: classes (distance learning), libraries, services, facilities, and accounting systems. The League supports closer alignment of undergraduate and transfer requirements, articulation agreements¹, and joint teaching and degree-producing arrangements among the campuses. Cost containment in operations is important. Any reforms, however, must not negatively impact academic standards or the quality of services on the state campuses. The League supports retaining and finding mechanisms to enforce the existing funding formula for financing the community system, 1/3 tuition, 1/3 state aid, and 1/3 county support. Both the state and county sponsors should be obligated to pay their chartered proportion.

PROPERTY TAX AND STAR

PROPERTY TAX

Statement of Position

As announced by the State Board, January 1980

And revised to reflect State Convention action, 1983

And further revised to reflect Financing Education state study 2005-2006

The League of Women Voters of New York State believes that the assessment of real property must be:

- 1. Equitable in its distribution of the tax burden;**
- 2. Based on uniform standards;**
- 3. State assisted, monitored, and enforced;**
- 4. Easily understandable and accessible to taxpayers.**

The League has determined that the assessment system that best meets these criteria is one that is based upon an initial determination of full value and then applies to those full value assessments differential assessment ratios or tax rates according to class of property. The state legislature should define a limited number of such classes of property and establish a permissible range of assessment ratios for each class. Within that range local legislative bodies would then be able to adopt local assessment ratios, which best meet their land use, economic development and social policies.

Property tax bills should contain all relevant information including: the classification, the assessment ratio, the tax rate, the full value assessment and the classified assessment, as well as the procedure for appealing. Taxpayers should have access to all existing appeals procedures as well as an intermediate non-judicial appeal body in order to protest both their assessments and their classification at low cost.

Administration of the property tax should be improved. The state should provide financial and technical assistance to localities, establish qualifications for assessors, provide training and otherwise monitor and

PROPERTY TAX

Statement of Position

As announced by the State Board, January 1980

And revised to reflect State Convention action, 1983

And further revised to reflect Financing Education state study 2005-2006

(continued)

Statutes governing exemptions should be reviewed with the intention of severely limiting new classes of exemption and preventing abuse of existing exemptions. Provisions of law must be clarified and made more stringent so that properties held by nongovernmental tax exempt bodies which are used for profit or for any purpose not directly related to the tax exempt purpose of the organization do not escape taxation.

The State should replace local residential property tax relief programs that grant taxpayers relief regardless of ability to pay with programs in which tax relief is limited to those individuals with a limited ability to pay and made available on a sliding scale according to need. The “circuit breaker” type of relief, in which state funded reimbursement is given to homeowners and renters whose property taxes exceed a certain percentage of income, should be expanded and should be automatically adjusted on an annual basis to reflect cost of living adjustments to the maximum income limit and maximum property value for eligibility.

The option of tax deferral should be made available to senior citizens with the taxes owed constituting a lien against the sale of the property or the liquidation of the owner’s estate.

The League of Women Voters would like to see voluntary adoption of tax base sharing by counties or regions of the state.

Recent League Activity

In 2007-2012, pursuant to the recommendations in our 2005-06 state study, the League continued to advocate for revisions to the STAR property tax relief program by replacing the STAR program, which is imperfectly targeted to need, with a property tax circuit breaker program, which would

provide greater relief once real property taxes reached a percentage of income. Testimony was provided at the joint legislative education and finance hearings in February of each of those years. In 2007, during Governor Spitzer's tenure and prior to the financial markets' dramatic decline, a Middle Class STAR program was instituted. Although the League had lobbied for income limitations, this expensive program was layered on top of BASIC and ENHANCED STAR, sending rebate checks directly to taxpayers with an income phase-out at \$250,000. In 2009, this program was repealed (§1306 of Real Property Tax Law was deleted), but the Basic and Enhanced STAR programs continued.

Property Tax Circuit Breaker. Proposals for a property tax circuit breaker were supported by the League and other organizations in 2008-12. However, the Legislature did not seriously consider substituting a property tax circuit breaker for STAR, but rather discussed it as an additional program. In early 2009, the League co-sponsored a seminar for policymakers on the property tax circuit breaker. Governor Patterson proposed a property tax circuit breaker to be phased in upon the receipt of budget surpluses in the fall of 2009. In late 2009, as the legislature passed mid-year budget cuts, the possibility of further curtailments to the STAR program was under consideration, largely due to the continuing economic recession. In 2010, the legislature enacted a limitation on income for eligible recipients of Basic STAR at \$500,000. The League had advocated means testing of Basic STAR as a second option (if STAR was not to be replaced with a more targeted property tax relief circuit breaker).

Middle Class STAR Elimination. The Middle Class STAR program was eliminated in the April 2009 budget (§ 1306(b) of the Real Property Law).

Property Tax Cap Opposition. Governor Cuomo proposed a property tax cap, which the legislature passed in June 2011 (S5856/A8518 signed June 24, 2011 pursuant to a Message of Necessity by Governor Cuomo including rent control law extensions, and now §2023-a of NYS Education Law) The League strongly opposes the property tax cap. Enacted in June 2011 but effective for the school years beginning 2012-13, this measure has already begun to show its deleterious effects on school districts, disproportionately harming poorer districts. The League's website provides evidence of strenuous opposition advocacy prior to the passage of the legislation.

The League continues to advocate for 1) full implementation of the foundation aid formula, developed in response to the CFE litigation, 2) in opposition to tax caps unless and until foundation aid is fully implemented (with regular updates based on student need and income and property wealth) and 3) replacement of the STAR programs with a property tax circuit breaker, which would provide relief based on taxpayer's ability to pay.

Past League Activity

The 1972 LWNYS fiscal policy position called for more uniform assessment procedures. A 1975 Court of Appeals decision calling for implementation of full value assessments prompted a study of property tax in 1977 to amplify and clarify what the League meant by "uniform assessment." In 1980, a new position emerged calling for an initial determination of full value, with assessment, or tax rates, set by local governments within classes defined by the state.

The League has supported a variety of bills improving the assessment procedures. A bill, which preserves fractional assessments and all existing local assessment methods, was enacted into law over strenuous League opposition in 1981.

Despite League members' recognition of the generally high level of taxation in New York State, they believe that all of the above recommendations, if implemented, would provide adequate relief. They are firmly opposed to any further legislative or constitutional tax or expenditure limitations, but urge that efficiency, productivity and prudence in government at all levels be encouraged.

Because of the June 26, 2003 Campaign for Fiscal Equity decision (see "State Finances" above), the League commenced testifying on property tax assessment and collection reform, in accordance with our position statement.

In 2005 and 2006 the League, in conjunction with the update of its Financing Public Education K-12 position, studied the STAR Program and reached consensus calling for the replacement of tax relief programs that are not related to need with those that are targeted to individuals most in need. In July 2006, the board amended its Property Tax position to reflect this consensus.

In 2006, the League testified unsuccessfully against expansion of the STAR Program to include a further reduction of school taxes, irrespective of need, in the form of a tax rebate check mailed to each taxpayer eligible for STAR immediately before the November election. On September 21, 2006, the League was invited to participate in an invitation only roundtable discussion of the role of property tax in education finance, hosted by Assemblywoman Galef. It supported statewide funding of CFE, adoption of a foundation approach to education, in which a reasonable rate of local taxation would be established and the remainder of funds would be supplied by the State, and replacement of property tax relief programs made available regardless of need with relief based on need. Written testimony is available online under legislative advocacy.

PUBLIC AUTHORITIES

Public authorities are legal entities established by the New York State Legislature to undertake large-scale works many of which are fiscally self-sustaining (e.g., mass transit, public housing). Although government creates them, authorities are publicly owned, raise their own capital by issuing bonds, and are vested with certain administrative and financial powers.

At the outset public authorities were single purpose and financially independent. In recent years, however, their projects have included many which have produced little or no revenue (e.g., mental health facilities) and have required government loans, grants, and subsidies.

In recent years, the legislature has sold, traded, and assigned state facilities (e.g., prisons) to public authorities in order to obscure budget deficits.

By early 1986, public authorities had amassed a \$26 billion debt, which was guaranteed by the full faith and credit of the state. Critics of the public authorities system have long cited their failure in long-range planning and their lack of accountability to the public.

In 1986 the League undertook a study, "Public Authorities: Their Organization, Function, Financing and Accountability."

PUBLIC AUTHORITIES

Statement of Position

As announced by the State Board, May 1987

The League of Women Voters of New York State believes that the legislature should create public authorities only when it has determined that there is a need for the services/projects that government agencies and private organizations are unable or unwilling to undertake.

Greater accountability and oversight should be built into the system. The governor, comptroller, and legislature should monitor actively those areas for which they are legally responsible and should report their findings to the public.

The jurisdiction of the Public Authorities Control Board should be extended to large authorities, which are not dependent on state budget subsidies and thus are exempt from much legislative scrutiny. This increased oversight should include the power to deny new financing. Authority debt should be limited by such means as sunset provisions and debt ceilings. Authorities should adhere to sound financial practices including competitive bidding where appropriate, timely standardized reporting and management, and

Recent League Activity

In December 2009, Governor Patterson signed the Public Authorities Reform Act of 2009 into law. The League and other good government groups saw this legislation as a truly significant attempt to address ways to make the authorities more accountable and transparent. The bill reflected fundamental positions the groups had long held:

- An Independent State Public Authorities Office to oversee the authorities, much as the NYC Independent Budget Office does not for the City
- A requirement that members of public authority board's have a fiduciary duty of loyalty to their authority
- Some meaningful State Comptroller review of billions of dollars annually in authority contracts
- Limits on giving away assets and protections for whistleblowers.

Past League Activity

During 2000-2003, the League has become increasingly aware of the need to monitor the Public Authorities Control Board (PACB). The League's Legislative Director now monitors the meetings held monthly. We have encouraged the press to also attend these meetings to assure the public is aware of the importance of the activities carried out by this Board. Because of the budget deficits following the World Trade disaster, there is the potential for State borrowing to increase to a greater degree than is currently done. Also, because of the publicity surrounding alleged irregularities in the MTA (Metropolitan Transportation Authority), the Canal Corporation there is increased potential for legislative action involving public authorities. During the 2004 legislative session, this issue may take center stage in League legislative activities.

Early in 2004 the New York State Comptroller issued a report entitled "Public Authority Reform: Reining in New York's Secret Government." In that report, the Comptroller documented scores of incidences of scandals and corruptions at New York State Authorities. As a result, of this scrutiny and work done from the Assembly Corporations Committee there appears to be a broad based agreement that the states' authority be subject of greater public scrutiny and oversight. Governor Pataki agreed and by executive order created the Public Authority Governance Advisory Committee to review and make recommendations regarding each authority's corporate governance plan. The panel, known as the Millstein Panel was charged with examining authorities' practices.

Because of this scrutiny, both the legislature and the executive branch came forward with legislation to advance Public Authority reform. Attorney General Eliot Spitzer and Comptroller Allen Hevasi called for the creation of a Commission modeled on the commissions used by Washington to shut down unnecessary military facilities to examine each of the state's authorities to determine whether they should be re-organized or shut down altogether. The Governor's plan was advanced by legislation, which would:

- Requires those lobbying for authority contracts to register with the State's Temporary Commission on Lobbying.
- Increased public disclosure to the Public Authority Control Board, Senate Finance Committee and Assembly Ways and Means Committee; for those authorities already required to report to said bodies.
- Same authorities must also give their approved budget and independent audit to the yet to be created Independent Budget Office.
- Annual independent audits.
- State Comptroller must audit each authority every three years, rather than every five as currently required by law.

In addition, Assemblyman Brodsky proposed advanced legislation which would:

- Require those lobbying for authority contacts to register with the State's Temporary Commission on Lobbying.
- Create the office of the Public Authorities Inspector General, the attorney general would appoint the Inspector General.
- Enable the IG to investigate and report his or her findings and to work on policies to avoid corruption and other abuse, including improper lobbying, in public authorities.
- Create the Public Authorities Independent Budget Office.

- The Comptroller would appoint the head of the Public Authority Independent Budget Office. Requires the IBO to collect, distribute and assess information about the yearly budget for each authority.

Unfortunately, the 2004 legislative session ended without these initiatives being passed.

The 2005 legislative session saw the exact above measures reintroduced. Ultimately, the Senate and the Assembly took the first step toward improving oversight and governance of New York's Public Authorities by passing the Public Authorities Accountability Act. The legislation essentially codified recommendations made by the Millstein commission and created an Authorities Budget Office and Inspector General, appointed by the Governor.

The League supported the Public Authorities reform legislation, however, we regretted that it did not address the issue of closing down inactive and/or redundant Authorities. At that time, we called for a one-time review of each Public Authority and Subsidiary Corporation with a report-recommending disillusion of those that no longer served a useful function.

The League and its good government coalition partners continued to lobby that session for more oversight over the amount of public debt that Authorities can issue. Most of this debt issued by Public Authorities is without legislative or voter approval. The League feels there also needs to be a requirement that decisions to issue debt of a large amount should be subject to public approval.

In 2006, no legislative action was taken on further Public Authorities legislation however attention turned that session to the Public Authorities Control Board (PACB). The League has monitored this control board for several sessions and was present at the highly controversial Westside Stadium Control Board meeting to decide if this stadium would be created on the Westside of Manhattan. Most PACB control board meetings are held in a small conference room on the first floor of the Capitol and attended by the Assembly Ways and Means and Senate Finance staff. Decisions are made by the leadership in the two houses and the Governor's budget division behind closed doors and then rubberstamped at the PACB meeting.

Because of the controversy surrounding the Westside stadium the meeting was moved to the large meeting room off the concourse adjacent to the convention center. For this PACB meeting, the room was filled to overflow with approximately 500 people in attendance. Most of them construction workers who stood to gain or loose jobs. After four hours of waiting the Assembly Ways and Means and Senate Finance staff entered the room surrounded by State Troopers. The meeting was ruckus and following the decision not to fund the Westside stadium the staff and a few lobbyist were escorted out the back of the meeting room by State Troopers.

In the 2007, the Public Authorities Reform Act of 2007 was introduced which would create an independent public authority office, provide for a fiscal year start date of July 1, and clarify aspects of the Public Authorities Accountability Act of 2005. This legislation was unanimously passed by the Assembly, but was not addressed in the state Senate. This legislation did address concerns that the government reform coalition sited in 2005.

STATE BUDGET PROCESS

Spurred by a continuing budget crisis in New York State, delegates to the 1991 state League convention adopted a study of the New York State budget process. The inability to determine the true state fiscal status compromised the effectiveness of the League in lobbying for League positions such as financing education, affordable housing, child care and Medicaid funding for abortion. Delegates felt that the League should be able to comment on such fiscal and budget practices as “member items,” or the use of questionable revenue enhancers like the selling of highways and prisons in order to make the state’s accumulating deficit seem smaller. During the two-year study, League members examined the process, by which the state adopted its budget, including budget timetable, format, public involvement, accountability, revenue forecasting, bond ratings, budget caps, and the like. In January 1993, the state League approved a position, which emphasized timely passage, responsiveness, and open process.

STATE BUDGET PROCESS

Statement of Position

As announced by the State Board, January 1993

The formulation and passage of the state budget is one of the most important functions of state government. The League of Women Voters of New York State believes that the state budget process requires reform so that it will be both timely in passage and responsive to the state’s various constituencies. In order to affect these goals, changes in the budget process should cover reforms in how the state allocates spending and plans for revenues.

The League supports measures to provide:

- **A clear concise budget document;**
- **A balanced budget according to Generally Accepted Accounting Principle (GAAP);**
- **More accountability for member items;**
- **Public disclosure of off-budget items;**
- **Consensus revenue forecasting;**

STATE BUDGET PROCESS

Statement of Position

As announced by the State Board, January 1993 (continued)

The League opposes measures, which would:

- Place a cap on budget growth;
- Require a super-majority for tax increase;
- Replace an annual budget with a biennial budget; and
- Adopt the governor's budget in lieu of timely passage.

The League supports a budget process that requires consensus revenue forecasting and compromise through joint conferencing by a committee from both houses. Such changes would reduce some of the political maneuvering and expedite the budget process. We support adequate funding and sunset provisions, in addition to the required fiscal impact statement, for all fiscal bills in order to guarantee the funding source and provide regular review. An established review process would determine a bill's effectiveness and need for continuation and would prevent yearly "spending creep." We oppose placing a cap on budget growth, requiring a super-majority vote to increase taxes, or changing from an annual to biennial budget. The above reforms, coupled with a requirement for a three-year financial plan would help reduce state spending in reaction to yearly political pressures and provide a mechanism for analyzing the long-term impact of spending. To reduce emergency situations at mid- year or year's end, periodic scheduled adjustments to the budget should take place during the fiscal year. In order to gain a truer picture of the state's financial condition and to limit budget "gimmicks," the constitution should be amended to require a balanced budget according to GAAP, as submitted by the governor and passed by the legislature.

"Member Items," or legislative initiatives, are recognized as a part of the state budget; however, the process of awarding them must be reformed. All member items must include:

1. Presentations of need and costs in order to obtain legislative approval;
2. Public disclosure and accountability; and
3. Formal review before re-awarding.

In the event that appropriations bills are not passed before the beginning of a new fiscal year, the governor's budget should not be automatically adopted as the final year's budget, nor should the

Note: This budget process position covers only the executive budget. (See **Legislative Procedures** under **Government**.)

Recent League Activity

2012

In 2012, the leadership in the Legislature was negotiating the last two sticking points in the 2012-2013 state budget---education and health. In the education budget, the sticking point dealt with the governor who had proposed \$250 million in competitive grants statewide and the legislature who wanted that money to go to the high needs districts. After many days of negotiations, the legislature won this one. The governor ended up getting \$50 million and the legislature put \$200 million back into high needs districts. As many League members may remember, in 2011 the governor had agreed to add 4% more in education money to this year's budget; on top of that, the executive budget appropriated a total of \$805 million to this year's education budget.

The major controversy in the health care budget concerned the creation of a Healthcare Exchange. The Senate Republicans staunchly refused to go along with the Healthcare Exchange in the fear that they will be accused of supporting "Obamacare."

The process around the budget played out differently than the process two weeks earlier when we did the "Big Ugly". The Big Ugly comprised the redistricting lines, constitutional amendment on structural reform for redistricting, pension reform Tier 6, DNA database, and the constitutional amendment on gambling. Except for the district lines and the constitutional amendment, the legislation was presented with a message of necessity and importantly in the middle of the night. The governor and the legislature were severely criticized for the process as it was decided by the governor and the leadership in the legislature that the budget would be done during the day and only after they had been on the desks of legislators for the required three days. An on time budget was important because it allowed the governor and the Republican majority in Senate to be able to say that Albany is no longer dysfunctional and that the gears of government are functioning smoothly.

2011

In 2011 for the first time in five years the New York State budget came in right on time. However, the Wednesday proceeding passage was a hectic day of protests and budget bills passing at lightning speed. Approximately 2000 people occupied the interior of the Capitol, the stairwells, the million dollar staircase and the 2-4th floors. Shortly after the buses began to arrive at 1 p.m. the Sergeant at Arms shut down the lobby outside the Senate Chamber and one of the two galleries overlooking the Senate floor. The Assembly shut down both of their galleries and the League negotiated the remainder of the afternoon with the Assembly to comply with the Open Meetings Law.

The budget bills were finally passed in the Senate by midnight and in the Assembly by 1 a.m. Governor Cuomo said in his State of the State message that he wanted an on time budget

and that he wanted cuts to education and health care—he got all three. He was definitely the winner in this budget.

2007 Budget Reform and Aftermath

The League achieved a partial victory with the 2007 round of budget reform, in which the legislature, working with Governor Spitzer, finally passed budget reform. The legislation adopted a “quick Start” to budget deliberations by beginning discussions in November, required fiscal impact statements for legislative changes to the budget prior to adoption, required member items to be listed individually, making them subject to the Governor’s veto, required deference to the Comptrollers’ revenue forecasts if the governor and legislature could not agree by March 1, required the use of conference committees to resolve differences, and required the Governor to explain in plain language the impact of proposals on local government. In 2009, the League testified before the Senate select committee on budget and tax reform and noted that many reforms in the 2007 Budget Reform Act have not implemented.

The League remains adamant that additional reforms are needed:

- A clear concise budget document and public disclosure of off-budget items
- An independent budget office
- Mandated joint conferencing and public meetings
- More accountability for member items
- Limiting the use of “messages of necessity”.

Some Progress in Timeliness and Disclosure

One of the aims of the 2007 budget reforms was to increase the time for budget deliberations with “quick-start” budget discussions required each November. We were encouraged when the Governor released his 2009 Executive budget early in December allowing for earlier budget discussions. Unfortunately, in the end the process lacked involvement by rank and file legislators or the public. Progress was made in 2009 in accordance with another 2007 reform that called for fiscal impact statements for legislative changes to the budget prior to adoption.

Clear and Concise Budget Document

Both legislative deliberation and citizen involvement require a budget document that is lucid, concise, and understandable. The League feels that the budget should clearly identify non-recurring revenues and allow for the same degree of public disclosure and scrutiny for “off-budget” items as for the Executive budget.

Consensus Revenue Forecasting and an Independent Budget Office

In our view the single most important reform not accomplished by the 2007 budget reforms was the creation of an independent budget office. Instead, the Comptroller would be the final arbiter for available state revenues. The Comptroller is an elected official and does not have the same public perception of objectivity, particularly in election years. Independent, nonpartisan

forecasting and economic analysis would be one important means of enhancing long-term planning capabilities and ensuring greater fiscal stability for the state.

Joint Conferencing and Public Meetings

The League has long urged the use of joint conferencing and public meetings to facilitate the budget process and increase public participation. Despite rules changes as a result of the 2007 budget reforms, and the use of conference committees in 2008, conference committees were not even formed in 2009. A deeply flawed process in developing the 2009-2010 budget left the public without adequate information or input. The law should be changed to mandate the creation of joint conference committees and adequately noticed joint public meetings

Messages of Necessity

The League continued to urge that the use of “messages of necessity” during the budget process be restricted to genuine instances in which a delay would cause substantial and irreparable harm.

Past League Activity

Testimony on reform of the NYS budget process was given before the NYS Minority Task Force on Legislative Reform in March 1993.

In 1994 and 1995, the League supported Assemblywoman Sandra Galef’s proposal for a constitutional amendment to implement the previous year’s budget in the event a budget is not enacted by April 1. Other Galef reform proposals supported by the League in 1995 were limitation on the number of bills introduced, and legislation to open conferences.

The League sent a letter with NYPIRG and Common Cause (March 29, 1995) urging the leadership of both houses to use the public and open process of a joint conference committee to debate and develop a state budget. Such a joint conference was used to negotiate the 65 m.p.h. speed limit, but after one budget joint conference, the process was dropped and budget negotiations returned to the leadership-closed circle. (See Legislative Procedures under Government section, Joint Conferencing.)

In July 1995, Senate Majority Leader Bruno announced his intention to introduce a package of budget process reform legislation in the next session.

During the 1996 legislative session, the legislature passed and the governor signed legislation, which would call for joint revenue forecasting to be in place by March 10, 1997.

Also, during 1996 the leadership, under pressure from the League and other good government organizations and the media, held an open leadership budget meeting, which was universally considered staged and unproductive and was never repeated. No open leadership meeting or joint conferencing was done during budget negotiations in 1997. Beginning with the 1996 budget negotiating session, the practice of tying the budget to a political issue became apparent. The issue in 1996 was reform of the workers’ compensation laws. Once that issue was resolved, budget negotiations began in earnest and a budget was enacted 104 days late.

In 1997, the League again supported Assembly member Galef's proposal for a constitutional amendment to implement the previous year's budget if a budget is not adopted by April 1. This legislation was sponsored in the Senate by John DeFrancisco and had wide bipartisan support. With League support, it passed in the Senate but was not addressed in the Assembly. The League subsequently did much press work around this issue. The League continues to call for joint conference committees; more input from rank and file legislators, and a three-year financial plan to reduce state spending in reaction to yearly political pressures. Without reform measures in place, the 1997 state budget was a record-breaking 126 days late. The practice of holding the budget hostage to one political issue continued during the 1997 session, the issue being rent control legislation for New York City and suburbs. Because of the continued overwhelming lateness of the budget, pressure from the media, and the League, all three leaders have vowed, publicly to reform the budget process in the next legislative session.

During the fall of 1997, the Assembly Speaker held hearings statewide on the budget process. The League was invited by the Speaker to attend and testify at all the hearings.

Because of local League participation at every site across the state, the League received much media attention and became the lead organization on reform of the budget process.

During the League's campaign to defeat the ballot question, "Shall there be a constitutional convention?" it was evident that citizens' main impetus behind wanting a convention was the frustration over the chronic late state budgets. This plus the League's constant drumbeat on budget process reform and the forthcoming 1998 elections prompted the Legislature to begin the 1998 session in a budget process reform mode. Although the March 10 statutory deadline for revenue forecasting was not met, the legislative leaders made good on their public vow to hold open joint conference committees.

Beginning in early April 1998 and lasting for 10 days, general conference committees made up of the two leaders, their finance chairs, both minority leaders and the most senior members of the leadership met in open public session with legislators, lobbyists and the press present. It was pure political theater and the seats to this event were prized. It was held in a hearing room of the Legislative Office Building (LOB), too small to accommodate every one who wished to watch it. The League, because of the very public position on reform was given a front row seat.

For 10 days, nine subcommittees met all over the capitol and LOB. These were made up of rank-and-file legislators who were anxious to have input into the budget making process. Subcommittees were formed according to subject area; i.e., Health Committee, Education Committee. Minority legislators finally had a voice and they quickly became good at articulating their fiscal priorities. When recommendations and appropriations to implement those recommendations being given to the General Conference Committee, there was standing room only in the hearing room. Lobbyists were jammed into every corner and on every step. Some people waited in line outside the hearing room for an hour or so to get a seat.

The budget passed just nine days late and there was a general euphoria among members, lobbyists, and the press that had taken a first step toward something good. The leaders vowed

they would never go back to “three men in a room” budget making. One week later, the euphoria turned to anger and depression. The governor felt that he had been left out of the process and so he used his veto pen to strike out all Democratic (Assembly) additions that also were not Senate additions; Pre-kindergarten, monies to ensure small classroom sizes additional monies for family planning and other Democratic additions. Much to the chagrin of the Assembly, Governor Pataki also vetoed Democratic member items but left Republican member items intact. The Assembly was not able to override the governor’s veto and a very distrustful and angry atmosphere would carry over to the 1999 budget session.

During a mid December 1998 session to address expiring legislation, the Assembly and Senate agreed to a trade with the governor to obtain a 38 percent pay raise for legislators and judges. The governor’s salary was also increased. In exchange for these raises and as a cover for expected citizen outrage they agreed to withhold their salaries if the state budget was not passed by the April 1, 1999 deadline. In a middle of the night session, also in exchange for the 38% pay raise, the Governor extracted legislation creating Charter Schools. The League lobbied extensively during that all-night session to achieve some accountability for Charter Schools. (See the section entitled: Tuition Tax Credits, Vouchers, and Charter Schools in the State Finance Section, page 136)

The 1999 budget process began with the anger and distrust of the end of 1998 still very evident. The governor’s budget of approximately \$72 billion did not address the universal Pre-K monies, health care monies or education monies desired by the Assembly and to a degree by the Senate.

The March 10 statutory deadline for forecasting of available revenues was not met and the political posturing, nastiness and distrust continued. On April 14, legislators received their last paycheck, although the governor continued to be paid. The League, along with NYPIRG and Common Cause sent recommendations to the majority and minority leadership to further reform the budget process. Over a period of seven months, we sent three letters and heard only from the minority in both houses. Following much media work and extensive grassroots lobbying, the “budget process” began in early August ending 126 days late tying the record for late budgets. The “process” of holding three-day conference committees was little more than a sham done just to say they had not done the budget with “three-men-in-a-room.” In reality, that is exactly what happened. The leadership and the Governor’s staff made all major decisions. What had begun in 1998 with such promise had deteriorated back to a process no different than previous years. The fear of a governor’s veto resulted in a deal being made to keep the process behind closed doors between just the three leaders. Following the August 4 budget passage, no line item vetoes were done but an open, accountable process had become the victim.

The budget in 2000, because it was an election year, contained lots for everyone; there was an increase in school aid, family planning services were expanded up to 200% of federal poverty level. This increase made the program secure, particular to League interests. There was also an increase of \$1.5 million to the 2000 budget in family planning services. Debt reform was the outstanding issue and it was finally resolved, but in a less than satisfactory way according to most independent budget analysts. The main issue had been over whether the first passage of a constitutional amendment limiting such things as “backdoor-borrowing” should be done this year.

Second passage would be in the 2001 newly elected legislature and it would go to the public in statewide ballot. The leaders could not agree to a longer commitment to debt reform and Speaker Silver had only agreed to first year passage. Bond raters told the leadership that something immediate must be done to keep NY's bond rating from falling like it had been doing. Subsequently, there is now a two-year statute with a ten-year phase-in of caps. However, a future legislature could repeal and/or modify the statute at will.

After an eight-month long budget battle that encompassed nastiness among the parties not seen in two decades, no budget activity, no joint conference committee work, nothing was accomplished. On August 2, 2001 just before midnight, the New York State Legislature sailed headlong into uncharted waters! Into the first hours of August 3rd, legislators passed an austere "bare-bones" baseline budget. They also refused to pass an 800-page amendment by the Governor, setting up a power struggle between the Legislative and Executive branches of government.

The Legislature said their "bare-bones" base-line budget was a budget and would have provided stability to the state while legislators and the Governor negotiated a supplemental budget. They also said it would allow state government to function responsibly (without coming back every week to pass budget extenders). The Comptroller said that although it was not a good budget, it was "sufficient for the ongoing operations and support of state government" (legislators can now get paid). The Governor said that it was not a budget, was illegal, and could cripple the operation of state government; he threatened to sue the Legislature.

This new budget also changed some of the traditional political alliances in Albany, pitting Republican Majority Leader Joe Bruno against his Republican Governor and with his usual nemesis, Democratic Assembly Leader Sheldon Silver. The Legislature intended this base-line budget to shift the political dynamic in Albany and give the Legislature more leverage with the Governor to bring him to the table to negotiate a supplemental budget. Under a 1993 state Court of Appeals ruling the Legislature can only increase or decrease the Governor's spending plan, but can't change the wording of his proposals. Once a budget is in place, however, the Legislature has the authority to initiate its own spending bills. The strategy of the Legislature was to gut his budget proposals of all the economic and other initiatives he wanted and thus force him to the table to negotiate with the Legislature. A supplemental budget would then be negotiated on more equal footing. Under this bare-bones budget, but after August 31st, the state won't be able to incur new obligations for capital projects, thus halting approximately \$3 billion in new monies for roads, bridges, and infrastructure repair. After September 15th, all "reappropriations" would have been eliminated. These were monies that needed to be reauthorized for programs begun in previous years such as the Adolescent Pregnancy and Prevention Services Program; many other not-for-profit social services programs including domestic violence programs, homeless shelters, and food pantries, and by October 31st, the Child Health Plus Program will run out of money.

On September 11, 2001, terrorists attacked the World Trade Center and life, as we knew it in New York State was changed. Both houses of the legislature united with the Governor and issues intransigent before September 11th no longer had the same political significance.

Therefore, in an emergency session called by the Governor on September 19, reappropriations were approved, Child Health Plus was extended, and a resolution condemning the terrorist attacks was passed without any significant debate. The events of September 11th and the massive destruction to lower Manhattan created a nine billion dollar deficit. Any prospect for a supplemental budget crumbled with the World Trade Center.

Budget process reform has continued to be an issue of longstanding League concern. The state budget has been late for a remarkable 19 straight years. As was expected in the post September 11th atmosphere a two-year budget shortfall of 6.8 billion occurred because of the WTC disaster and the recession. There were lost revenues resulting from the impact on financial services, banking, insurance, and the tourism industries. The Governor proposed to meet the shortfall by using some of the reserves built up over the last seven years. The budget shortfall was projected to be 1.1 billion in the current year and 5.7 billion in 2002/2003. Reduction of the state work force through attrition and early retirements, maximizing federal revenue supports were proposed to close the gap.

The 2002 budget session was characterized by an off budget health care package negotiated between the Governor and Local 1199 of SEIU. This included legislation, which would increase Medicaid payments over the next three years to hospitals and nursing homes throughout the state. It was widely speculated the Governor in anticipation of a re-election bid had negotiated this legislation in exchange for the endorsement by this large union. No budget reform measures were enacted in this session and most importantly, no joint conference committees were held. The public statements by both legislative leaders and the Governor that they would never go back to “three men in a room” appear to be lost. The budget was again negotiated by “three-men-in-a-room”.

Court Ruling on Governor’s Suit Against the Legislature on the Budget

In an important decision, which might alter the way future budgets are negotiated, a State Supreme Court Justice ruled that the Governor, not the Legislature, has the authority to alter the language on budget bills. The Governor had argued in his suit (August, 2001) that the NYS Constitution allows him to insert policy changes to state law into appropriations bills and that the Legislature is barred from making changes to that language. Legislative leaders appealed the decision to the Court of Appeals. The lower court decision was upheld and the Governor’s powers were strengthened. Meanwhile, the judge stayed his decision until a higher court can review it. This issue arose during the 2001 budget process over Medicaid, education, and the Environmental Protection Fund.

The 2003 budget session was the most interesting in many years. It was characterized by Governor’s vetoes and Legislative overrides that increased money for school districts, health care, and many not-for-profits. Notable, however, is that there were again no budget reforms enacted. The budget continues to be negotiated by “three men in a room” or more accurately this session by “two men in a room”. As a result, of the budget overrides, the animosity between the legislative leaders and the Governor was palpable and continued throughout the session.

The overriding issue for the 2004 legislative session, as with the previous twenty sessions, was the perennial late state budget. For several years, the League had been extremely vocal about reform of the state budget process. We supported specific reforms including:

- An independent budget office (IBO);
- A clear concise budget document;
- Public disclosure of off budget items;
- Consensus revenue forecasting;
- Joint budget conferencing;
- A three-year financial plan;
- Agency budgeting process open to the public;
- Use of a contingency budget if a new budget is not passed by the start of the fiscal year.

A League budget reform measure, the enactment of a contingency budget, would require a constitutional amendment. If a budget were not adopted by May 1, this reform would require the automatic imposition of a contingency budget that would continue the previous year's budget for the ensuing fiscal year pursuant to statute. If a revenue shortfall is forecast, and the Legislature does not act, appropriations in the contingency budget may be modified to ensure a balanced budget, pursuant to Legislative authority. This reform would require first passage this session and second passage in the new legislature next session. It would then go on the ballot in November 2005. The Governor does not get to act on a Constitutional Amendment. It is widely believed that this specific reform is the legislature's attempt to reestablish itself as more of a co-equal with the Governor in budget negotiations. Legislation should be out by the end of April.

As referred to above, both houses did reach agreement and passed (first passage) a constitutional amendment on a contingency budget. However, the Governor does get to act on implementing legislation of a Constitutional Amendment. In late November 2004, the Governor did veto the implementing legislation, which then set up legislative override possibilities. The Senate, because it passed the legislation first, by law would have to override the Governor's veto first. Majority Leader, Joseph Bruno, publicly stated that his house would override the Governor's veto during a special session in December. That did not occur and the speculation was rampant that the Governor had threatened and cajoled several Republican members of the Senate. When the Senate returned four days before Christmas, Mr. Bruno again publicly stated that the Senate would be overriding the Governor's veto. After a very lengthy party conference on December 21st, the Senate announced that instead of overriding the Governor's veto they would pass compromise budget reform legislation. This legislation was passed along a straight party line vote in the Senate and because it was one-house legislation, it died on December 31, 2004. The session ended with the status quo "no budget reform."

During the regular session of 2004, the Senate and Assembly had passed similar to, but not identical budget reform bills and following League urging convened joint conference committee to attempt to resolve their issues. These joint conference committees were fascinating to watch and reassuring in the fact that rank-and-file legislators can think through and negotiate very complex issues. These open negotiating sessions were so instructive that the League suggested to the leadership that they be televised statewide.

Four hours before the start of the new fiscal year on April 1, 2004, the joint conference committee announced its reform recommendations. Most of the recommendations were right on point with the League position on budget reform. A great League victory! The outline for reform is as follows:

- All agency requests will be made public prior to submission of the executive budget;
- Three-year financial plan;
- Enhanced fast start (similar to the Leagues recommendation of revenue forecasting);
- Creation of a joint independent budget office;
- “Off-budget” items such as HCRA included as part of the state budget (an issue the League strongly advocated for);
- Fiscal year will move from April 1 to May 1.

However, an on time budget was not to be. Budget negotiations dragged on for the entire 2004 legislative session with no agreement. Because the scenario in Albany that “nothing is done until everything is done,” other issues became entangled with CFE case and the budget, subsequently nothing was accomplished. The legislature left Albany with a six-week budget extender ending August 1st.

Finally, in mid-August, the budget, which was the latest in the state’s history, was passed by the state Legislature. However, a week after the legislature left Albany, Governor Pataki vetoed 195 appropriations given to him by the legislature.

There are several reasons why the 2005 state budget was on time. First and foremost, the voters in New York State get the greatest credit for an on-time budget. Their frustration level after 20 straight years of late budgets was taken out at the ballot box last November when three incumbents lost their seats primarily on the reform issue. Many candidates who ran for open seats also ran on reform platforms and won. Legislative leaders knew that this was the year they had to bring a budget in on time and so began to work together toward that end.

Of course, the Court of Appeals decision last December which gave the Governor total control over constructing a budget helped focus them. The Court of Appeals ruling was the result of lawsuits going back to 1998 and 2000 in which the Assembly Speaker and then the Legislature sued the Governor for creating policy within the budget. The Court said that the Governor was the "constructor" of the budget and the Legislature could add, delete, delay or negotiate but could not "substitute" for the Governor's language in the budget. Another reason for the on-time budget was the Governor's own poll ratings. His job approval was lower than it had been at any time in his tenure; he also needed to look like a reformer and he could not let his legacy be one of never having an on-time budget during his Governorship.

The actual 2005 budget process was fascinating to watch. The Governor gets credit for pushing open the leaders meetings that were held in the red room on the second floor of the Capitol and were actually open (we had to push our way into the first one). They included the two minority leaders so there were actually five men in a room and perhaps five is their lucky number because the minority leaders did seem to have a calming effect on the usually caustic atmosphere around the Speaker and Governor. Having all the press and reform advocates in the room avoided stalemates or stonewalling. They could not just cross their arms and refuse to negotiate. A time

frame was set up and followed. The joint budget conference committees were done in a very short time and were in many respects nothing more than a reporting mechanism to report what the staff had negotiated in private.

Rank-and-file legislators did get to articulate broad policy guidelines during these conferences. The budget was passed on March 31, 2005 in both houses. Following the April 1 deadline, when the spotlight receded, the hard negotiations for the "big" issues that had been taken off the table during the open process actually began. Funding for \$1.1 billion was still out there for the TANF (temporary assistance to needy families), Environmental Protection Funds, and HAVA money to fund voting machines and the statewide voter database along with Medicaid issues. Those issues did finally get resolved 11 days later and the budget was finally done. That scene was much more typical of the Legislature; it was done at night with the bills warm from the copying machine. CFE funding was not included in the budget. The Governor has appealed the decision of State Supreme Court that had taken the recommendations of the Special Masters. That appeal will now go to the Appeals Court and then to the Court of Appeals. The Legislature did agree to \$880 million more in education funding in this budget, but they did not change the funding formula.

The League has long lobbied for a timely and responsive budget. In the 2004 session we were able to secure first passage of a constitutional amendment requiring a contingency budget of the previous year's funding level go into effect if no budget passed by the beginning of the fiscal year. In 2005 the Assembly and Senate, gave second passage to this amendment paving the way for voter approval in November. Also included in this amendment is a change of the fiscal year from April 1 to May 1, an independent budget office (IBO) that would project available revenue eliminating the perennial Albany problem of the three principles never agreeing on available state revenues. The legislature last session was unable to override the Governor's veto. The legislation was again passed this session by both the Senate and the Assembly and again vetoed by the Governor. Early in May, the Senate did override the Governor's veto. Eight Senate minority votes were needed for the 2/3 override. The League worked hard to get these eight votes necessary for the override. In a press conference, Mr. Bruno publicly thanked the good government groups, especially the League, for their help with this legislation. The Assembly had also committed to overriding the Governor's veto.

The voters in the November 2005 election by a 2-to-1 margin defeated the contingency budget legislation, known as Proposition One. All of the major editorial boards in the state, the Governor, and the Comptroller opposed this ballot proposition. Governor Pataki mounted a television campaign, which the League and its good government partners did not have the resources to respond to. Therefore, the 2006 session began with no budget reform enacted.

The 2006 budget session was characterized by election politics. Because neither the legislature, nor the Governor wanted to be seen as "dysfunctional," the budget was enacted on time. CFE continued to dominate the budget negotiations. No budget process reforms were enacted.

Following the election of a new governor in November 2006, budget reform once again became a priority issue. Chapter One of the laws of 2007 became a three-way, agreed to, budget reform law. Unfortunately, this agreed to legislation was negotiated behind closed doors, but it did

contain most of what the League had been advocating for over the past two decades, with one notable exception, an IBO. The League and its coalition partners had long advocated for an independent budget office (IBO). Rather than an IBO the agreed to legislation specified that the Comptroller would be the final arbiter for available state revenues. The legislation as passed into law contains the following:

- "Quick start" budget discussions will be required each November and quarterly meetings will be held thereafter between executive and legislature;
- The consensus revenue process will be expedited;
- The State Comptroller will be authorized to resolve disputes over revenue;
- Plain language impact statements will be prepared on a range of program areas, including funds for TANF, Medicaid and Environmental Protection Fund;
- Requires joint budget conference committees within 10 days of submission of the Executive Budget;
- The legislature will be statutorily required to enact a balanced budget;
- The legislature will be required to explain fiscal impacts of changes it makes to the governor's budget bills;
- Lump sum appropriations, including "member items," will be itemized.

There will be a new "rainy day" fund, setting aside three percent of the General Fund in reserve, which will be added on top of the current two percent "rainy day" fund for a total of five percent. The new fund can be used in the event of economic downturn or disaster.

The legislature was able to pass a budget by the April 1, 2007 fiscal deadline. However, we were extraordinary disappointed in the budget process as it was done behind closed doors by the usual three-men-in-a-room. We severely criticized the Governor and leadership and were assured by the Governor that he had gotten our message and this would be the last year of a budget done primarily in secret by leadership only.

The next year, 2008, saw a budget process more secretive and more behind closed doors than we have seen in probably fifteen years. If you were partial to three-men-in-a room, behind closed doors, then you just loved this budget session.

January 2007, shortly after the new governor, Eliot Spitzer took office, he and legislative leaders made much fanfare over a three-way agreed to budget reform legislation which became known as Chapter 1 of 2007. Under this new law, a quick start budget process for the agencies and new legislative budget process was to begin. By the end of 2007 that agency budget reform process was working well. Under the new law, available revenues must be determined by March 1st of each year.

On Friday, March 7, 2008 the sky fell in and on Monday, March 10th Governor Spitzer resigned. The following Monday, David Paterson was sworn in as Governor and had to quickly orient himself to budget negotiations. Later that week, Wall Street took a nosedive and with it went revenue that New York State counted on. The new Governor re-estimated revenues to be lower by \$800 million dollars and asked the agencies and the legislative leadership to cut spending in this new budget. But of course, this is an election year and asking legislators in an election year

to cut spending, even in very trying economic times, is like trying to tell your four year old “you can’t have a cookie, before dinner.” Legislative leaders stomped their feet, ignored the governor and continued their election year binge.

The issue currently holding up the budget and keeping Albany in a state of either suspended animation or dumbfounded amazement is congestion pricing. This is an issue the League does not have a specific position on. It is a proposal championed by NYC Mayor Michael Bloomberg. It would reduce congestion below 60th Street in Manhattan by charging \$8.00 per car for anyone driving in the City from 60th Street down to the tip of Manhattan at high peak traffic hours of the day. Environmentally, this may be a laudable goal. However, it has created a huge political firestorm. Budget negotiations (behind closed doors, between three-men-in-a room) have come to an abrupt halt while hour, after hour, after hour the issue was debated in the Assembly Majority Conference. On April 7th the Assembly Majority decided not to bring the issue to the floor of the Assembly for a vote, killing congestion pricing. Following the announcement by the Assembly Democratic Majority, the Assembly adjourned. This prevented the Assembly Republican Minority from introducing a hostile amendment on the floor of the Assembly. Meanwhile over in the Senate, the Senate Democratic Minority walked off the floor preventing a quorum so that the Senate Republican Majority could not force a vote, thereby putting the downstate Democrats on the record on congestion pricing.

Following the failure of congestions pricing on Monday, April 7th, both houses of the legislature moved quickly to reach agreement on a budget. An agreement was announced on a \$121.9 billion dollar budget on Tuesday night and by 2:30 on Wednesday afternoon the Senate had passed the budget and adjourned. The Assembly followed shortly after. It is almost impossible at the moment to tell what exactly is in this budget as it was passed in secret with only briefings to the legislators in party conference. There were not open leaders meetings except for one. Some joint legislative budget committees never met and the rest met only once. The bulk of the election year budget was done in one big ugly bill; a process that the Governor and the legislative leaders both conceded was awful.